

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In Re:)	Adversary No. _____
)	
Taniel Patrice Sanders	)	Case No. 18-33826
)	
Debtor,	)	Chapter 7
_____)	
	)	Judge John P. Gustafson
)	
Taniel Patrice Sanders 3837 House of Stuart Ave Toledo, OH 43607)	
	)	<u>COMPLAINT TO DETERMINE</u>
Plaintiff,	)	<u>DISCHARGEABILITY OF STUDENT</u>
	)	<u>LOANS UNDER 11 U.S.C. § 523(a)(8)</u>
v.)	
	)	Joseph E. Stanford (0096581)
U.S. Department of Education c/o Secretary of Education 400 Maryland Avenue, SW Washington, DC 20202	)	Legal Aid of Western Ohio, Inc.
	)	525 Jefferson Ave., Suite 400
	)	Toledo, Oh 43604
	)	Telephone: 419-930-2526
	)	Fax: 419-321-1582
and	)	Email: jstanford@lawolaw.org
)	
Pennsylvania Higher Education Assistance Agency d/b/a FedLoan Servicing 1200 N. 7th Street Harrisburg, PA 17102	)	Attorney for Plaintiff Taniel Patrice Sanders
)	
	)	Jury Trial Demanded
)	
Defendants.)	

PLAINTIFF'S COMPLAINT

Plaintiff Taniel Patrice Sanders files this Complaint against Defendants, U.S. Department of Education and the Pennsylvania Higher Education Assistance Agency d/b/a FedLoan Servicing, on personal knowledge as to Plaintiff's own acts and upon information and belief as to all other matters, as follows:

PARTIES

A. Plaintiff

1. Taniel Patrice Sanders is a citizen of the State of Ohio, residing in the Northern District of Ohio.

B. Defendants

2. U.S. Department of Education is a U.S. Government Agency and can be served c/o Secretary of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

3. Pennsylvania Higher Education Assistance Agency d/b/a FedLoan Servicing is a corporation (and/or quasi-government agency) headquartered in the State Pennsylvania and can be served at 1200 N. 7th Street, Harrisburg, PA 17102.

JURISDICTION AND VENUE

4. This Adversary Proceeding is brought under Case Number 18–33826.

5. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 1334(b) and 28 U.S.C § 157(b). This is a core proceeding under title 11 because it concerns a determination as to the dischargeability of a debt.

6. This Adversary Proceeding is brought pursuant to 11 U.S.C § 523(a)(8), 15 U.S.C § 1601, 15 U.S.C. § 1692 and Federal Rules of Bankruptcy Procedure Rule 7001.

7. Venue is proper in the Northern District of Ohio pursuant to 28 U.S.C. § 1409 because this matter arises in and is related to a bankruptcy case in this district.

FACTUAL AND PROCEDURAL BACKGROUND

A. Background of Plaintiff

8. Plaintiff is a 35-year-old mother that is blind that has Stage 4 breast cancer.

9. She attended the University of Toledo from 2003 to 2005 and Owens Community College from 2005 to 2006 majoring in pre-nursing.
10. In 2007 she was pregnant with her first child but had to be hospitalized during most of the pregnancy due to an extreme case of *hyperemesis gravidarum*. Unfortunately, her first child died soon after birth.
11. Around 2008 she moved to Columbus and attended Columbus State Community College until around 2009. In 2009, she was pregnant with her second child, but was again hospitalized during most of the pregnancy due to another extreme case of *hyperemesis gravidarum*.
12. Around 2012 she went back to school this time attending Terra State Community College until around 2014.
13. In 2014 she permanently lost her sight in her left eye due to a retinal detachment. However, in 2014 she did find part-time temporary work at Fiat Chrysler and the Northwest Ohio Psychiatric Hospital.
14. On February 13, 2017 when she was diagnosed with Stage 4 Breast Cancer (or Metastatic Breast Cancer) that has spread to her lymph nodes and into her spine and into her bones.
15. Around August 2018 she lost her vision in her left eye due to a retinal detachment and presently has 20/20,000 vision. As of March 2019, she is under the care of Dr. Richard C. Phinney, Medical Oncologist at The Toledo Clinic Cancer Center at 4235 Secor Rd, Toledo, OH 43623 and Dr. Jeffery N. Stephens at The Toledo Clinic Vision Associates at 3330 Meijer Dr. Suite 1, Toledo, OH 43617.
16. She is presently being treated for cancer and will be starting more chemotherapy that will continue to compromise her immune system.

17. Because of her medical issues, Plaintiff's Mother has quit her job to be her full-time care taker.

18. Additionally, Plaintiff's Social Security is used to not only support herself, but to support her mother, her younger brother and her 9-year-old son. Absent a miracle, there is no possibility that Plaintiff will be able to repay her student loans.

B. Plaintiff Files for Bankruptcy

19. Plaintiff borrowed approximately \$16,535.00 from Defendants in order to attend several colleges between 2003 and 2016.

20. Owing to circumstances beyond her control, Plaintiff filed for bankruptcy in this Court on January 12, 2019.

21. Plaintiff's combined student debt is now \$21,373.00 Plaintiff's current income is \$1,134.50 per month in SSDI to include \$488.50 in SSI for her son.

22. Plaintiff's student loan costs are unaffordable given her income that will not significantly change over the long term.

CLAIMS FOR RELIEF

A. Count One: Determination of Dischargeability

23. Plaintiff re-alleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.

24. Plaintiff is entitled to discharge of her student loan debt, either in whole or in part, because repayment would constitute an "undue hardship" on her.

25. Plaintiff meets the standard for undue hardship as articulated in *Brunner*.

(a) Plaintiff cannot maintain a minimal standard of living for herself and her son without some assistance even without any student loan payment being made. *See* Schedules I & J.

(b) Plaintiff is permanently blind and also has Stage 4 Breast Cancer that has spread to her lymph nodes, spine and bones; even if she beats the cancer she will still be blind and will not be able to work now or in the future.

(c) Plaintiff has made a good faith effort where possible to repay her student loans and has availed herself to administrative remedies, such as deferment and forbearance, because of her medical condition and inability to work has never had a meaningful opportunity to repay the student loans.

26. Accordingly, Plaintiff prays this Court discharge her student loan debt in whole or in part.

JURY DEMAND

27. Pursuant to her rights under Rule 38 of the Federal Rules of Civil Procedure and Rule 9015 of the Federal Rules of Bankruptcy Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

28. In light of the foregoing, Plaintiff requests that Defendants be cited to appear, and judgment be entered against Defendants for:

- (1) Declaratory and injunctive relief;
- (2) Determination of dischargeability;
- (3) Other such relief as the Court deems just and proper.

Respectfully submitted,

/s/ Joseph E. Stanford

Joseph E. Stanford (0096581)
Legal Aid of Western Ohio, Inc.
525 Jefferson Ave., Suite 400
Toledo, Oh 43604
Telephone: 419-930-2526
Fax: 419-321-1582
Email: jstanford@lawolaw.org
Attorney for Plaintiff Taniel Patrice Sanders